

PATENT
Customer No. 22,852
Attorney Docket No. 05725.0490-00

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re National Stage of International
Application No. PCT/FR99/00609 of:

Nadia TERREN et al.

Application No.: 09/423,974

International Filing Date: November 17, 1999

35 U.S.C. §371 date: January 5, 2000

For: USE OF A SILICONE SURFACTANT
OF ALKYL-DIMETHICONE
COPOLYOL TYPE FOR PREPARING
SOLID WATER-IN-OIL COSMETIC
EMULSIONS AND RESULTING
SOLID WATER-IN-OIL EMULSIONS

)
) Group Art Unit: 1617

)
) Examiner: L. Wells

)
) **CERTIFICATE OF TRANSMISSION**
) **UNDER 37 CFR §1.8**

) I hereby certify that this correspondence is
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) Patent and Trademark Office on October 1,
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) Signature: Jennifer Leveille

) Date: 10/1/04

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF UNDER BOARD RULE § 41.37

Sir:

In support of the Notice of Appeal filed herewith, and further to Board Rule 41.37, Appellants present this Appeal Brief to request appeal. Applicants request the \$340 fee for the Notice of Appeal, and the \$340 Appeal Brief fee required under Board Rule 41.20(b)(2), be charged to our Deposit Account No. 06-0916.

This Appeal Brief is filed in response to the Final Office Action dated July 1, 2004 ("2004 Office Action"), of claims 75-80, 82-93, and 96-107, which are set forth in the attached Appendix. If any additional fees are required or if the enclosed payment is

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insufficient, Appellants request that the required fees be charged to Deposit Account No. 06-0916.

I. Real Party In Interest

L'Oréal S.A. is the assignee of record.

II. Related Appeals and Interferences

There are currently no other appeals, interferences, or judicial proceedings known to Appellants or Appellant's legal representatives or assignee that may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status Of Claims

Claims 75-80, 82-93, and 96-108 are pending. Claim 108 has been withdrawn from consideration.

Claims 75-80, 82-93, and 96-107 are at issue in this appeal. No claims have been allowed. Claims 75-80, 82-93, and 96-107 have been finally rejected under 35 U.S.C. § 103(a), and claim 107 has been finally rejected under 35 U.S.C. § 112, second paragraph.

IV. Status Of Amendments

All amendments have been entered, and no amendments under 37 C.F.R. § 1.116 have been filed.

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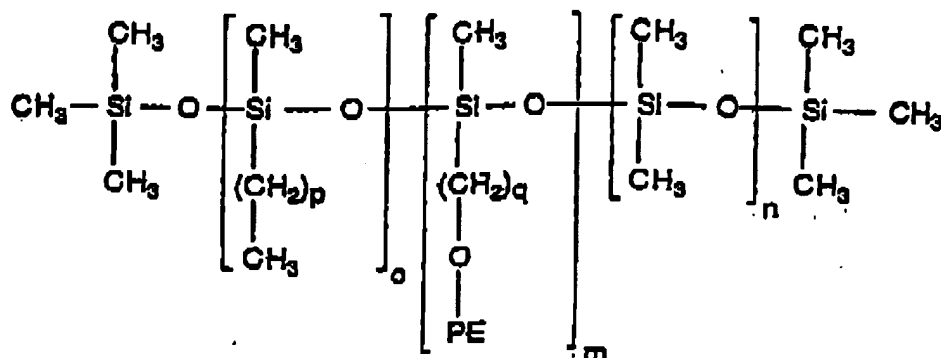
V. Summary of Claimed Subject Matter

The present invention relates to a solid cosmetic water-in-oil emulsion comprising an alkyldimethicone copolyol silicone surfactant.

Solid emulsion foundations generally comprise fatty substances, such as waxes and oils. (*Specification* at p. 1, line 25 to p. 2, line 1.) When these compositions are applied to the skin, however, they exhibit the disadvantage of transferring to or at least being partly deposited on certain other substrates with which they may be brought into contact, such as clothing or skin. (*Id.* at p. 2, lines 3-8.) As a result, these prior art foundation compositions suffer from a "mediocre persistence" on the skin, requiring regular reapplication. (*Id.* at 8-11.) Moreover, these compositions suffer from poor dispersion of the pigments therein, resulting in an emulsion that is not homogeneous. (*Id.* at 12-14.) Other prior art water-in-oil emulsion cosmetic compositions have also exhibited nonhomogeneity, e.g., solid water-in-oil emulsions comprising silicone oils and solid waxes. The emulsifiers used in such compositions can be organopolysiloxanes modified by polyoxyalkylenes. (*Id.* at 15-26.)

The present invention relates to the surprising and unexpected discovery that by using a specific silicone surfactant of the alkyldimethicone copolyol type in combination with at least one oil and at least one wax, it is possible to obtain a solid water-in-oil emulsion that exhibits the desired characteristics discussed below and that also exhibits the advantage of not transferring. (*Id.* at p. 3, lines 1-14.) The silicone surfactant has the following formula:

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with specifically defined variables. (*Id.* at p. 5, lines 1-13.)

In the solid emulsions of the invention, the aqueous phase emulsified by the silicone surfactant is in a fatty phase comprising at least one oil and at least one wax. (*Id.* at p. 3, lines 15-22.) The inventive compositions, such as an emulsion, can result in a homogeneous water-in-oil emulsion with desired characteristics in which the pigments, dyes, and oils are well dispersed. In addition, the emulsion can be soft, can provide good slip and good hold, and can have good persistence on the skin. (*Id.* at 1-6.) Thus, the inventive compositions can provide the desired property of not transferring to other substances. (*Id.* at 12-14.) The emulsion can spread easily while maintaining homogeneity. (*Id.* at p. 4, lines 7-11.) It can have good moisturizing properties and cosmetic properties due to its softness and good slip. (*Id.*) Moreover, the emulsion, when applied to skin, does not migrate into the folds of the skin and/or wrinkles of the face. (*Id.* at 14-16.)

Also disclosed and claimed in the present specification are a transfer-resistant cosmetic composition comprising the solid cosmetic water-in-oil emulsion described above, and a process for making up the skin and/or scalp, by applying to the skin and/or

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the scalp, a solid cosmetic water-in-oil emulsion as described above. (*Id.* at p. 3, line 7 to p. 4, line 6.)

VI. Grounds of Rejection to be Reviewed On Appeal

The grounds of rejection to be reviewed on appeal are:

1. Claim 107 stands rejected as indefinite under 35 U.S.C. § 112, second paragraph;
2. Claims 75-80, 82-86, 90-93, and 97-107 stand rejected under 35 U.S.C. § 103(a) as obvious over EP 595 683 (Mellul)¹ in view of U.S. Patent No. 5,196,187 (Nicoll et al.);
3. Claims 75-80, 82-84, 90-93, and 96-107 stand rejected under 35 U.S.C. § 103(a) as obvious over EP 595 683 (Mellul et al.) in view of U.S. Patent No. 5,650,139 (Nojima); and
4. Claims 75-80, 82-84, 87-93, and 97-107 stand rejected under 35 U.S.C. § 103(a) as obvious over EP 595 683 (Mellul et al.) in view of U.S. Patent No. 4,536,405 (Nara et al.).

VII. Argument

The independent claims on appeal (claims 75, 104, and 107) recite the common feature of (1) a solid cosmetic water-in-oil emulsion comprising an aqueous phase emulsified in a fatty phase comprising at least one oil and at least one wax, (2) the aqueous phase emulsified using an alkyl dimethicone copolyol corresponding to the indicated formula, and (3) the at least one wax in the fatty phase capable of conferring a

¹ An English translation of Mellul is available as U.S. Patent No. 5,851,539. In this Brief, all Mellul citations refer to the '539 patent.

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penetration force on the emulsion of greater than or equal to 50 grams. The independent claims also feature other limitations, which will be discussed in greater detail below.

A. First Ground of Rejection: An "amount effective to provide transfer-resistant properties" is definite under 35 U.S.C. § 112, second paragraph

The Office maintains the rejection of claim 107 under 35 U.S.C. § 112, second paragraph. (2004 Office Action at pp. 2-3.) According to the Office, neither the specification nor the claims clearly define the phrase, "transfer-resistant," nor do they disclose an amount or range of effective amounts of the emulsion to provide this transfer resistance to the composition. (*Id.*) The Office believes that the specification provides insufficient guidance for one of ordinary skill in the art to determine the amount needed to provide transfer resistant properties. (*Id.*)

Appellants respectfully disagree. The standard of definiteness under 35 U.S.C. § 112, second paragraph, is a reasonable degree of clarity and precision. M.P.E.P. § 2173.02. "Definiteness of claim language must be analyzed, not in a vacuum, but in light of:

- (A) The content of the particular application disclosure;
- (B) The teachings of the prior art; and
- (C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made."

(*Id.*) Additionally, the use of relative terminology in a claim does not automatically render that claim indefinite, as the standard for indefiniteness is whether those of

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ordinary skill in the art would be reasonably apprised of the scope of the invention.

(M.P.E.P. § 2173.05(b).)

More specifically, the case law well establishes that a term such as "amount effective" is definite if the specification provides general guidelines and examples sufficient to enable one of ordinary skill in the art to determine the metes and bounds of the claim. *In re Marosi*, 710 F.2d 799, 803, 218 U.S.P.Q. 289, 292 (Fed. Cir. 1983). The Office has the burden of showing indefiniteness by evidencing that a "determination of such amounts would be beyond the skill of the art ... [or] that it would involve undue experimentation to ascertain them." *In re Halleck*, 422 F.2d 911, 914, 164 U.S.P.Q. 647, 649 (C.C.P.A. 1970). The *Halleck* court further noted that a claim is not objectionable where the "exact point of novelty" resides in the claimed agents, and not the amount used. *Id.* In contrast, an "effective amount of the diethylamino ethanol ester of phenaceturic acid" was held "on its face indefinite" because the specification "failed to state the function which is to be rendered effective." *In re Frederiksen*, 213 F.2d 547, 548, 102 U.S.P.Q. 35, 36 (C.C.P.A. 1954).²

Here, the specification provides sufficient guidance to allow one of ordinary skill in the art to determine the amount effective to provide transfer-resistant properties. "Transfer resistance" has a well known meaning in the cosmetics art, as exemplified by the specification. A composition that is not transfer resistant is one that, when applied to the skin, is "at least partly deposited, while leaving a trace, on certain substrates with which [it] can be brought into contact." (*Specification* at p. 2, lines 3-8.) For example, a

² The specification in *Frederiksen* provided only one specific example. Although the specification limited the upper boundary of added ester, the specification provided "no suggestion that amounts less than that specified ... are desirable or even operable." *Frederiksen*, 213 F.2d at 548, 102 U.S.P.Q. at 36.

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foundation composition with low transfer resistance rubs off easily onto clothing. A nontransfer-resistant foundation has "mediocre persistence" and requires frequent reapplication of the foundation composition on the skin. (*Id.* at 8-11.) The specification also provides exemplary numerical ranges of the ingredients (see, e.g., p. 6, line 17 to p. 7, line 1) and gives exemplary formulations (see, e.g., Examples 1 and 3). Such details fall within the holding of *Marosi* to guide one of ordinary skill in the art to achieve the effective amounts. As in *Halleck*, the Office has put forth no evidence that obtaining a transfer-resistant compound is "beyond" the ordinary skill in the art, in light of the claims and specification, i.e., one of ordinary skill in the art would not have to carry out undue experimentation to achieve a transfer resistant compound. Finally, unlike *Frederiksen*, it is clear that transfer-resistance is the function that is to be rendered effective. Thus, in the present case, one of ordinary skill in the art has a test to ascertain the amounts of emulsion effective to achieve transfer-resistance.

The Office asserts that only "transfer-free" was set forth in the specification and not "transfer resistant." (2004 Office Action at p. 7.) Applicants respectfully submit that there is "no requirement that the words in the claim must match those used in the specification disclosure. Applicants are given a great deal of latitude in how they choose to define their invention so long as the terms and phrases used define the invention with a reasonable degree of clarity and precision." (M.P.E.P. §2173.05(e).) As discussed above, one of ordinary skill in the art would readily understand the meaning of the well-known term of art of "transfer resistant," and even more so when read in light of the specification. This is all that § 112, second paragraph requires.

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Accordingly, for at least these reasons, Appellants respectfully assert that claim 107 satisfies 35 U.S.C. § 112, second paragraph.

B. Rejections Under 35 U.S.C. § 103(a)

In making a rejection under 35 U.S.C. § 103, the Office has the initial burden to establish a *prima facie* case of obviousness. (M.P.E.P. § 2143.) To establish a *prima facie* case of obviousness, the Examiner must show, among other things, some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine reference teachings. (M.P.E.P. 2143.01.) Here, as discussed further below, the Office has failed to show any such suggestion or motivation.

The present independent claims are each directed to a specific combination of ingredients and parameters. Independent claims 75 and 104 each require:

- (1) a solid cosmetic water-in-oil emulsion;
- (2) that the emulsion comprises an aqueous phase emulsified in a fatty phase comprising at least one oil and at least one wax
- (3) that the at least one oil in the fatty phase comprises a silicone oil;
- (4) that the at least one wax be chosen from polyethylene wax, hydrogenated jojoba oil, and ozokerite;
- (5) that the aqueous phase be emulsified using an alkyl dimethicone copolyol corresponding to the indicated formula; and
- (6) that the at least one wax in the fatty phase be capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams.

Claim 107 requires:

- (1) a transfer-resistant cosmetic composition;

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(2) that the cosmetic composition comprises a solid cosmetic water-in-oil emulsion;

(3) that the emulsion comprises an aqueous phase emulsified in a fatty phase comprising at least one oil and at least one wax;

(4) that the aqueous phase be emulsified using an alkyl dimethicone copolyol corresponding to the indicated formula;

(5) that the at least one wax in the fatty phase be capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams; and

(6) that the solid water-in-oil emulsion be present in the composition in an amount effective to provide transfer-resistant properties to the composition.

In view of the above-listed and quite specific combination of ingredients and parameters, Applicants respectfully submit that the Office has not established a *prima facie* case of obviousness. In particular, the cited references do not present the required suggestion or motivation to obtain a composition or process including all of the claimed aspects of the present invention. This argument is expanded upon below.

1. Second Ground of Rejection: Mellul in view of Nicoll

a. *There is no motivation to combine Mellul with Nicoll*

The Office maintains the rejection of claims 75-80, 82-86, 90-93, and 97-107 under 35 U.S.C. §103 over Mellul in view of Nicoll. (2004 Action at pp. 3-4.)

The Office contends that Mellul discloses water-in-oil emulsions that may be in the solid state comprising a silicone surfactant having the claimed formula, polyethylene wax, and hydrogenated oils that are solid at 25°C. (*Id.*) The Office further asserts that the ozokerite and polyethylene waxes taught by Mellul and which are "preferred waxes recited in the instant claims ... must be capable of conferring" the claimed penetration

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forces. (*Id.* at p. 10.) Applicants respectfully disagree for the reasons of record and further in view of the remarks set forth below.

(1) When reading Mellul as a whole, one of ordinary skill in the art would not arrive at the claimed combination

Mellul discloses a very large number of compositions without specifically guiding one of ordinary skill in the art to the presently claimed combinations. First, Mellul teaches that it is possible to obtain emulsions of very different viscosities "ranging from the very fluid to the solid state." (*Mellul* at col. 10, lines 16-21.) There is no requirement in Mellul that the composition must be a solid.

Second, Mellul teaches a continuous phase containing at least one fluorohydrocarbon. (*Id.* at col. 2, lines 20-23.) The continuous phase can optionally further include various hydrocarbon oils and waxes as additives. Mellul, however, does not specifically teach the combination of at least one oil and at least one wax as presently claimed.

Third, Mellul does not require that the at least one oil comprise a silicone oil, and the at least one wax be chosen from polyethylene wax, hydrogenated jojoba oil, and ozokerite, as required by claims 75 and 104. Although silicone oils and polyethylene wax are mentioned in Mellul, they are disclosed within a long list of possible oils and waxes.³ There is no specific teaching for the more narrowly claimed combination. Thus, one of ordinary skill in the art, faced with a vast number of possibilities, would

³ The Office alleges that Mellul teaches hydrogenated jojoba oil. Final Office Action at p. 6. Appellants note that Mellul teaches jojoba oil (co. 6, line 42), which is a different compound from the claimed hydrogenated jojoba oil, as evidenced by the attached sheets from the International Cosmetic Ingredient Dictionary and Handbook, 2000 (CD-ROM). See *Evidence Appendix*. Jojoba oil is *Simmondsia Chinensis* seed oil expressed or extracted from seeds of the desert shrub, Jojoba, *Simmondsia chinensis*. Hydrogenated jojoba oil is the end product of the controlled hydrogenation of jojoba oil.

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require hindsight just to arrive at the at least one oil and at least one wax, much less the combination of oil(s) and wax(es) as specifically claimed, e.g., in claims 75 and 104. Hindsight, as the Office is well aware, is an improper basis for a *prima facie* case of obviousness.

(2) *In re McLaughlin* does not promote hindsight analysis

The Office relies on *In re McLaughlin* to justify that “any judgment on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning ... so long as it takes into account only the knowledge which was within the level of ordinary skill.” (2004 Office Action at p. 9, citing *In re McLaughlin*, 443 F.2d, 1392 (CCPA 1971).

Appellants respectfully submit that *In re McLaughlin* does not circumvent the well-settled requirement of showing a suggestion or motivation to combine references. No case can “outweigh the dozens of rulings of the Federal Circuit and the Court of Customs and Patent Appeals that determination of patentability must be based on evidence.” See *In re Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002) (added emphasis). Thus, Appellants continue to respectfully maintain that Mellul does not provide the requisite evidence necessary to establish a *prima facie* case of obviousness.

To remedy these multiple deficiencies of Mellul, the Office relies on Nicoll. Nicoll, drawn to water-in-silicone oil emulsions, does not describe the claimed combination of ingredients for many of the same reasons discussed above for Mellul. In addition, Nicoll directly teaches away from a solid composition because Nicoll teaches that its emulsion is to be formulated as a lotion, a fluid cream, or a cream. (See col. 10, lines 32-45; see also Examples 1-4 describing lotions and creams.)

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Fourth, Mellul teaches the use of two silicone surfactants, each described as a generalized formula. Mellul certainly does not lead one of ordinary skill in the art to the specifically claimed silicone.

Finally, Mellul does not even remotely suggest that its at least one wax must be a wax capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams. The penetration force indicates the structural solidity of the compound. For instance, Example 3 of the present specification compares two inventive compositions with a non-inventive composition containing carnauba wax. (See pp. 20-21.) The comparison illustrates that the non-inventive composition containing carnauba wax, a wax not capable of conferring the claimed penetration force, did not produce a sufficiently solid composition. (See p. 21.)

To illustrate the Office's hindsight analysis regarding Mellul, Appellants outline Mellul's teachings below, where the claimed ingredients of the present invention are highlighted in boldface:

- A. Continuous phase contains one or more fluorohydrocarbons selected from the compound of:
1. formula (I) (col. 2, line 45 to col. 3, line 46);
 2. formula (III) (col. 3, line 47 to col. 4, line 20);
 3. formula (IV) (col. 4, lines 21-39);
 4. formula (I') (col. 4, line 42 to col. 5, line 21);
 5. formula (V) (col. 5, lines 23-52);
 6. formula (VI) (col. 6, line 52 to col. 6, line 17); and
 7. formula (VII) (col. 6, lines 18-26)
- the continuous phase can optionally contain "other compounds customarily used in the cosmetic field" either as active compounds or excipients, such as:
1. hydrocarbon oils and waxes, selected from:
 - (a) inorganic oils such as paraffin oil, vaseline oil and inorganic oils having a boiling point between 310° and 410°C.,
 - (b) oils of animal origin such as perhydrosqualene,

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(c) vegetable oils such as sweet almond oil, sesame oil, calophyllum oil, palm oil, avocado oil, jojoba oil,⁴ olive oil, castor oil, grain germ oils such as wheat germ oil,
(d) synthetic esters such as Purcellin oil, butyl myristate, isopropyl myristate, cetyl myristate, isopropyl palmitate, butyl stearate, hexadecyl stearate, isopropyl stearate, octyl stearate, isocetyl stearate, decyl oleate, hexyl laurate, propylene glycol dicaprylate and diisopropyl adipate,
(e) organic alcohols such as oleyl alcohol, linoleyl alcohol, linolenyl alcohol, isostearyl alcohol and octyl dodecanol,
(f) esters derived from lanolin acid such as isopropyl lanolate and isocetyl lanolate,
(g) acetylglycerides, octanoates and decanoates of alcohols and polyalcohols such as those of glycol and glycerol, ricinoleates of alcohols and polyalcohols such as that of cetyl,
(h) inorganic waxes such as microcrystalline waxes, paraffin, vaseline and ceresine,
(i) fossil waxes such as ozocerite and montan wax,
(j) waxes of animal origin such as bees wax, spermaceti, lanolin wax, derivatives derived from lanolin such as lanolin alcohols, hydrogenated lanolin, hydroxylated lanolin, acetylated lanolin, lanolin fatty acids, acetylated lanolin alcohol,
(k) waxes of plant origin such as candelilla wax, Carnatuba wax, Japan wax and cocoa butter,
(l) synthetic waxes such as polyethylene waxes,
(m) hydrogenated oils which are solid at 25°C. such as hydrogenated castor oil, hydrogenated palm oil, hydrogenated tallow and hydrogenated coconut oil,
(n) fatty esters which are solid at 25°C. such as propylene glycol monomyristate and myristyl myristate,
(o) among the waxes, there may also be mentioned: cetyl alcohol, stearyl alcohol, mono-, di- and triglycerides which are solid at 25°C., stearoyl monoethanolamide, rosin and its derivatives such as abietates of glycol and glycerol, sucroglycerides and oleates, myristates, lanolates, stearates and dihydroxystearates of calcium, magnesium, zinc and aluminium (col. 6 line 35 to col. 7, line 16);

2. silicone compounds chosen from cyclic dimethylpolysiloxanes, low and/or high viscosity dimethylpolysiloxanes, silicone gums, organopolysiloxanes such as phenylmethylpolysiloxanes and phenyltrimethylsiloxypolysiloxanes,

⁴ Jojoba oil is not the same as the claimed hydrogenated jojoba oil (see footnote 3).

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alkylmethypolysiloxanes, alkoxymethylpolysiloxanes, silicones containing functional groups such as alcohol or amine or thiol functional groups [silicone oils claimed] (col. 7, lines 17-25);

3. perfluorinated oils chosen from the group of perfluoroalkanes, perfluorocycloalkanes, perfluoropolycycloalkanes and perfluoro(alkylcycloalkanes), the group of aromatic perfluorinated hydrocarbons or alternatively those belonging to the group of perfluorinated hydrocarbons containing at least one heteroatom such as tertiary amines, saturated heterocyclic compounds or finally perfluoropolyethers (col. 7, lines 26-35);

4. gelling agents such as for example:
(a) metallic esters such as polyoxyaluminium stearate or aluminium and magnesium hydroxystearate,
(b) esters of fatty acids and of glycol and triglycerides,
(c) mixtures of fatty alcohols,
(d) derivatives of cholesterol especially hydroxycholesterol,
(e) clayey minerals which swell with oils belonging to the group of montmorillonites (col. 7, lines 36-45); and

5. screening agents, vitamins, hormones, antioxidants, preservatives, colorants, perfumes and any lipophilic additive customarily used in cosmetics (col. 7, lines 46-49).

B. Aqueous phase emulsified with a silicone surfactant chosen from:

1. formula (II) (claimed invention is a subset of formula II); and
2. formula (VIII);

- and optionally contain water-soluble constituents such as:

1. polyols such as propylene glycol, 1,3-butylene glycol, glycerol, polyglycerol, sorbitol, glucose or alternatively sucrose, in proportions not exceeding 80% by weight relative to the aqueous phase;
2. aqueous gelling agents such as:
(a) polysaccharides such as cellulosic derivatives(carboxymethylcellulose, hydroxypropyl methylcellulose and the like) and also xanthan or carob gum;
(b) proteins such as sulphonic keratin, collagen or elastin,
(c) silicates such as aluminium and magnesium silicate,
(d) acrylic derivatives such as carbomers and glycerol polyacrylate,
(e) polyethylene glycols

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3. active ingredients such as sodium hyaluronate, sodium salt of pyroglutamic acid, magnesium gluconate, trace elements and biological derivatives, glyceryl polymethacrylate,
4. salts such as magnesium sulphate or sodium chloride,
5. clayey minerals which swell in aqueous medium, such as saponite, hectorite or alternatively smectite,
6. amino acids,
7. colorants (col. 7, line 53 to col. 8, line 10);

C. Emulsions can have a viscosity "ranging from very fluid to the solid state" (col. 10, lines 16-21.)

Appellants respectfully submit that although not all of Mellul's disclosure is offered here, Mellul's teachings provide a near infinite number of possible formulations. It can be seen that the Office had to search through layers of Mellul's disclosure to arrive at the claimed invention. The cited prior art provides no direction to choose the claimed ingredients from the lists of numerous possible ingredients and the Office has failed to show any motivation to choose and combine the claimed ingredients. The Office merely picks the claimed ingredients from thousands of possible combinations and deems it obvious.

Accordingly, Appellants respectfully submit that Mellul, even when read as a whole, does not teach the presently claimed combination. As noted, when read as a whole, Mellul provides a near infinite number of compositions besides the preferred embodiments disclosed therein. Accordingly, Mellul does not and cannot reasonably be considered to suggest the desirability of the claimed invention, as required by M.P.E.P. § 2143.01 ("The prior art must suggest the desirability of the claimed invention."). Thus,

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Mellul does not guide one of ordinary skill in the art to select the specifically claimed combination of ingredients.

(3) The combined teachings of Mellul and Nicoll, as a whole, teach directly away from the claimed invention

The Office states that Nicoll "is merely relied upon to teach the interchangeability of silicone oils in cosmetic compositions." (2004 Office Action at p. 11.) Appellants respectfully disagree for reasons discussed below.

The combination of Mellul and Nicoll does not meet the high standard articulated by the Federal Circuit in *Dembiczak*, *supra*, and other recent cases, *i.e.*, that the evidence of a motivation to combine must be "clear and particular." *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). Instead, the two references present a myriad of possibilities with no guidance other than hindsight to choose the ingredients to satisfy the requirements of the present claims. Because a *prima facie* case has not been established, Appellants do not have the burden of showing any unexpected results. Only if the Office demonstrates a *prima facie* case of obviousness does the burden shift to the Appellants to come forward with evidence persuasive of the invention's nonobviousness. See *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984).

Even if, for the sake of argument, the references could be combined, Appellants respectfully submit that the combined teachings teach away from the claimed invention. Appellants respectfully submit that the references must be read as a whole. Mellul does not teach one of ordinary skill in the art to specifically select a solid composition, as Mellul states that its emulsions can have different viscosities "ranging from the very fluid

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to the solid state." (*Mellul* at col. 10, lines 16-21.) Nicoll, in contrast, specifies an emulsion formulated as a lotion, a fluid, or a cream. (*Nicoll* at col. 10, lines 32-45.) Nicoll thus directly teaches away from solid compositions, *i.e.*, all teachings of Nicoll, whether they be interchangeability of silicone oils or other teachings, are directed towards non-solid formulations, in direct contrast to Appellants' claimed invention.

Therefore, for at least these reasons, it is respectfully asserted that a *prima facie* case of obviousness has not been established over *Mellul* in view of *Nicoll*.

b. "Capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams" should be granted patentable weight

The Office maintains that "capable of" should not be given patentable weight. (2004 Action at p. 7.) The Office asserts that "capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams" is not a positive limitation and "does not constitute a limitation in any patentable sense," citing *In re Hutchinson* as support. (*Id.*)

As an initial matter, Appellants respectfully disagree that *In re Hutchinson* promotes such a broad holding. There, the C.C.P.A. held that "laminated article ... 'adapted' for use in making a template ... does not constitute a limitation in any patentable sense." *In re Hutchinson*, 154 F.2d 135, 138, 69 U.S.P.Q. 138, 141 (C.C.P.A. 1946). The court, however, did not propose that "adapted for" was not a patentable limitation *per se*; these statements were limited to the facts of *Hutchinson*. The M.P.E.P. is consistent with the *Hutchinson* holding in stating that "Office policy is not to employ *per se* rules to make technical rejections." (M.P.E.P. § 2173.02.)

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Further, it appears that the Office refuses to grant patentable weight to "capable of conferring a penetration force" at least in part because this limitation comprises functional language. Appellants submit that, for several reasons, this is an improper position for the Office to take. First, functional limitations "must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used." (M.P.E.P. § 2173.05(g).) Here, the phrase "capable of conferring a penetration force" fairly conveys to the person of ordinary skill that the wax at issue must have a certain level of solidity to have such a capability. This is a patentable limitation in the present claims, because, as discussed of record, not all waxes have this capability. Second, "[a]ll words in a claim must be considered in judging the patentability of a claim against the prior art." M.P.E.P. § 2173.06; *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Here, the Office is clearly not considering all of these words, and in fact seems to be ignoring this limitation in its analysis. Third, in response to the Office's assertion that "capable of" is not a positive limitation, Appellants note that the M.P.E.P. states that negative limitations can comprise suitable claim language "so long as the boundaries of the patent protection sought are set forth definitely, albeit negatively." (M.P.E.P. § 2173.05(i).)

Appellants also note that the Office previously treated this limitation as a patentable limitation. In the Final Office Action dated May 7, 2002, the Office withdrew the rejection under 35 U.S.C. § 102(b) over EP 595 683 because the "reference does not teach the capability of the wax to confer a penetration force greater than 50 grams on the emulsion as instantly claimed." *Final Office Action* at p. 3. By acknowledging

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this limitation as the reason for withdrawing a § 102 rejection, the Office has acknowledged on the record the patentability of this limitation.

Finally, Appellants respectfully note that the M.P.E.P. instructs that the limitation "incapable of forming a dye with said oxidized developing agent" is sufficiently definite "because the boundaries of the patent protection sought were clear." (M.P.E.P. § 2173.05(i); emphasis added.) Thus, by indicating that an "incapable of" limitation sets forth "boundaries of patent protection," the M.P.E.P. accorded patentable weight to this limitation.

For at least these reasons, Appellants respectfully submit that "capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams" should be granted patentable weight.

c. "Transfer-resistant" should be accorded patentable weight

Regarding claim 107, the Office has refused to give patentable weight to the term "transfer-resistant," alleging that the term states a "preamble use" or is based on a "discovery of a new property." (2002 Final Office Action at p. 4.) As discussed in the After Final Amendment filed on August 7, 2002, whether a preamble limitation is given weight is based on whether the preamble "gives life, meaning, and vitality" to the claims. M.P.E.P. § 2111.02, quoting *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 U.S.P.Q.2d 1161, 1165 (Fed. Cir. 1999). Here, the limitation "transfer-resistant" excludes those compositions that, when applied to the skin, are "at least partly deposited, while leaving a trace, on certain substrates with which they can be brought into contact." (See specification at p. 2, lines 3-8.) It is clear that a "transfer-resistant" composition is one that has a better than "mediocre persistence" on the skin and does

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not require "regular renewal" or re-application. (*Id.* at lines 9-11.) When one considers that claims should be read in light of the specification, this definition in the specification provides the term "transfer resistant" in the claim with life and meaning. See *Markman v. Westview Instruments*, 52 F.3d 967, 979-980, 34 U.S.P.Q.2d 1321, 1329-1330 (Fed. Cir. 1995). ("Claims must be read in view of the specification, of which they are a part."). Accordingly, the Office should consider this limitation in its determination of patentability

2. Third Ground of Rejection: Mellul in view of Nojima

The Office maintains the rejection of claims 75-80, 82-84, 90-93, and 96-107 under 35 U.S.C. §103 over Mellul in view of Nojima. (2004 Office Action at p. 5.)

Mellul is discussed above. The Office relies on Nojima for teaching "oil-based solid cosmetic compositions comprising a polyoxyalkylated silicone surfactant" and for disclosing polyethylene wax and hydrogenated jojoba oil. (*Id.*) The Office further notes that it is "within the skill in the art to select optimal components in a composition in order to achieve a beneficial effect." (*Id.*)

As discussed above, Mellul fails to teach the claimed combination of ingredients. Nojima does not remedy this deficiency, and if anything, teaches away from Mellul. Nojima states that its oil-based cosmetic compositions are preferably "substantially free from water." (*Mellul* at col. 3, lines 40-42.) All of the numerous examples are free of added water. Thus, Nojima fails to describe a water-in-oil emulsion. When read as a whole, therefore, the teachings of Nojima teach away from the water-in-oil compositions of Mellul. There can be no motivation to combine references with these divergent teachings.

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Appellants note that the Office has continually failed to address the substance of Appellants' arguments made in the Amendment filed February 19, 2002. Appellants have argued repeatedly of record that Mellul and Nojima teach away from each other. Mellul is directed to water-in-oil emulsions and provides numerous examples where water is the predominant component of the composition. Nojima, in contrast, relates to oil-based cosmetic compositions and provides numerous examples of compositions free of added water. The Office is required to respond to the substance of the Appellants' arguments, yet has not directly addressed the issue that the references teach away from each other. "Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." (M.P.E.P. § 707.07(f).)

Finally, one of ordinary skill in the art cannot simply "select optimal components in a composition in order to achieve a beneficial effect" as claimed. The art provides an infinite number of possible compositions that would not fall within the present claims. Such statements by the Office reflect a rationale that the references can be combined, which is not the standard for *prima facie* obviousness. (M.P.E.P. § 2143.01.) ("The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.") (emphasis in original). There must be a teaching or suggestion of the claimed combination of ingredients, including at least one wax capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams.

Therefore, for at least these reasons, it is respectfully asserted that a *prima facie* case of obviousness has not been established over Mellul in view of Nojima.

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3. Fourth Ground of Rejection: Mellul in view of Nara

The Office maintains the rejection of claims 75-80, 82-84, 87-93, and 97-107 under 35 U.S.C. §103 over Mellul in view of Nara. (2004 Office Action at p. 6.) The Office relies on Nara for teaching volatile isoparaffins, as the selection of an optimal isoparaffin "is not considered critical." (*Id.*)

Appellants submit that the combination of Mellul and Nara is improper. Mellul is discussed above. Nara teaches makeup compositions comprising ethyl hydroxyethyl cellulose and an aromatic hydrocarbon resin having a softening point of at least about 120°C. In contrast, Mellul teaches compositions comprising an aqueous phase emulsified with a silicone surfactant in a continuous phase of a fluorohydrocarbon. There is no teaching in Mellul that the ethyl hydroxyethyl cellulose compositions of Nara would benefit Mellul's compositions. Without a suggestion to combine the Nara compositions with those of Mellul, a *prima facie* case is not established.

Therefore, for at least these reasons, it is respectfully asserted that a *prima facie* case of obviousness has not been established over Mellul in view of Nara.

4. The combined teachings of Mellul and Nicoll, Mellul and Nojima, and Mellul and Nara are based on hindsight

All of the § 103 rejections are based on combined teachings involving Mellul and Nicoll, Nojima, or Nara. Applicants also respectfully submit that the teachings of Mellul, and Nicoll, Mellul and Nojima, and Mellul and Nara can only be combined with hindsight reasoning.

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The hindsight reasoning from Mellul is illustrated above. Neither Nicoll, Nojima, nor Nara remedy this deficiency. Indeed, additional hindsight is used in selecting these references, as stated in the previous remarks of the Appeal Brief and Reply Brief.

The Federal Circuit has repeatedly discouraged such hindsight picking and choosing. For example, a compound containing three components, *i.e.*, a substituted heterocycle, a bridge, and a polar tail, was found to be nonobvious in view of two prior art patents. *Yamanouchi Pharmaceutical Co., Ltd. v. Danbury Pharmacal, Inc.*, 231 F.3d 1339, 56 U.S.P.Q.2d 1641 (Fed. Cir. 2000). Specifically the court found no motivation to combine portions of one compound from a prior art patent with a piece of another compound in a second prior art patent:

Specifically, Danbury did not show sufficient motivation for one of ordinary skill in the art at the time of invention to take any one of the following steps, let alone the entire complex combination: (1) selecting example 44 as a lead compound, (2) combining the polar tail from example 44 with the substituted heterocycle from tiotidine, and (3) substituting the carbamoyl (CONH₂) group in the intermediate compound with a sulfamoyl group (SO₂NH₂) to create famotidine.

(*Id.* at 1344-1345.)

The Federal Circuit has rejected hindsight reasoning even when the references were agreed by all parties to be in the same field of endeavor as the invention.

Therefore an examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be "an illogical and inappropriate process by which to determine patentability."

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In re Rouffet, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d 1453, 1457 (Fed. Cir. 1998) (internal citations omitted). In reversing the rejection, the Federal Circuit required the Office to show that one of ordinary skill in the art "with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed." (*Id.*; emphasis added)

It is clear that the Office here has selected the cited references because she had knowledge of the claimed invention. The Office provides very little rationale for the combination other than that they are a water-in-oil emulsion (Nicoll), "an oil-based solid cosmetic composition" (Nojima). No rationale is provided for combining Mellul with Nara. The Federal Circuit in *Rouffet*, however, has held that such generalized teachings are not enough to support a *prima facie* case of obviousness based on a combination of references.

5. None of the combinations of references cited by the Office teach each and every claim limitation.

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." M.P.E.P. § 2143.03.

Even if the combinations of references cited by the Office were proper in the rejections under 35 U.S.C. § 103, each combination fails to teach all of the claim limitations. Mellul fails to teach the claimed combination of ingredients, as discussed above. Moreover, Mellul does not teach the desirability of using at least one wax capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams.

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The references relied on in combination with Mellul do not remedy these deficiencies. Nicoll, Nojima, and Nara all fail to teach at least one wax capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams.

Further, although Nara discloses a list of liquid oil ingredients at col. 4, lines 13-18, Nara in no way teaches or suggests selecting at least one oil comprising a silicone oil from this list.

Nojima discloses a large number of polyoxyalkylene modified organopolysiloxanes in col. 2. Nojima, however, does not provide guidance to specifically select the presently claimed alkyl dimethicone copolyol. Further, because Nojima is directed to oil-based cosmetic compositions that are preferably "substantially free from water," Nojima does not teach the use of emulsions. Thus, Nojima cannot possibly teach a solid water-in-oil emulsion present in the composition in an amount effective to provide transfer-resistant properties to the composition.

Therefore, for at least these reasons, it is respectfully asserted that a *prima facie* case of obviousness has not been established. Accordingly, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 103.

VIII. Conclusion

For the reasons set forth above, Appellants maintain that a *prima facie* case of obviousness has not been established by the Office based on the cited references, taken alone or in combination. Thus, Appellants respectfully request reversal of all the rejections of claims 75-80, 82-93, and 96-107 under 35 U.S.C. § 103(a), as well as the rejection of claim 107 under 35 U.S.C. § 112, second paragraph.

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To the extent any further extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Appeal Brief, such extension is hereby respectfully requested. If there are any other fees due under 37 C.F.R. §§ 1.16 or 1.17, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Date: October 1, 2004

By: *Maria T. Bautista*
Maria T. Bautista
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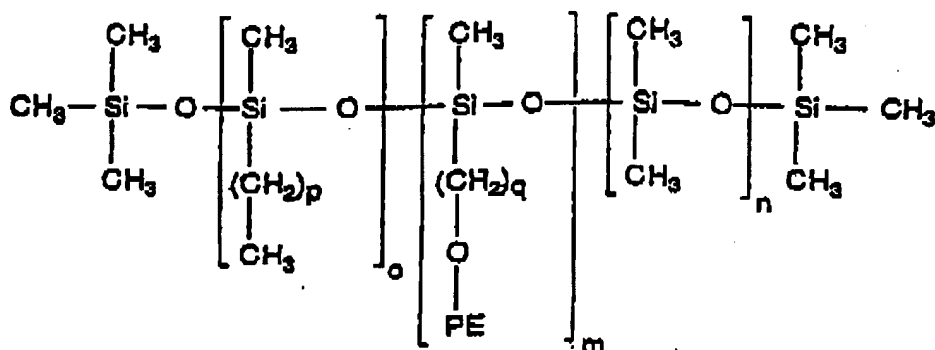
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CLAIMS APPENDIX

75. A solid cosmetic water-in-oil emulsion comprising an aqueous phase emulsified in a fatty phase comprising at least one oil and at least one wax, wherein the aqueous phase is emulsified using an alkyl dimethicone copolyol corresponding to the following formula:



in which:

PE is $(-\text{C}_2\text{H}_4\text{O})_x(-\text{C}_3\text{H}_6\text{O})_y-\text{H}$,

x ranges from 0 to 50,

y ranges from 0 to 30, with the proviso that x and y are not simultaneously 0,

o ranges from 1 to 100,

m ranges from 1 to 40,

n ranges from 1 to 200,

p ranges from 1 to 17, and

q ranges from 1 to 5, and

further wherein the at least one wax in the fatty phase is capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams;

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further wherein the at least one oil in the fatty phase comprises a silicone oil, and the at least one wax is chosen from polyethylene wax, hydrogenated jojoba oil, and ozokerite.

76. The emulsion according to claim 75, wherein
o ranges from 1 to 25,
m ranges from 1 to 10, and
n ranges from 1 to 100.

77. The emulsion according to claim 76, wherein
o is 21,
m is 4, and
n is 73.

78. The emulsion according to claim 75, wherein the alkyl dimethicone copolyol is a mixture of cetyl dimethicone copolyol, polyglyceryl-4 isostearate and hexyl laurate.

79. The emulsion according to claim 75, wherein the alkyl dimethicone copolyol is present in said emulsion in an amount of from 0.5 to 40% by weight with respect to the total weight of the emulsion.

80. The emulsion according to claim 79, wherein the alkyl dimethicone copolyol is present in said emulsion in an amount of from 2 to 12% by weight with respect to the total weight of the emulsion.

82. The emulsion according to claim 75, wherein the silicone oil is chosen from volatile cyclic silicones having from 3 to 8 silicon atoms, volatile linear silicones

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having from 2 to 9 silicon atoms, dimethylsiloxane/methylalkylsiloxane cyclocopolymers, polyalkylsiloxanes with trimethylsilyl end groups, and phenylated silicone oils.

83. The emulsion according to claim 82, wherein the silicone oil is a volatile cyclic silicone having from 3 to 8 silicon atoms.

84. The emulsion according to claim 83, wherein the volatile cyclic silicone having from 3 to 8 silicon atoms is chosen from cyclotetradimethylsiloxane, cyclopentadimethylsiloxane, and cyclohexadimethylsiloxane.

85. The emulsion according to claim 82, wherein the silicone oil is a volatile linear silicone having from 2 to 9 silicon atoms.

86. The emulsion according to claim 85, wherein the volatile linear silicone having from 2 to 9 silicon atoms is chosen from hexamethyldisiloxane, hexylheptamethyltrisiloxane, and octylheptamethyltrisiloxane.

87. The emulsion according to claim 75, wherein the at least one oil in the fatty phase further comprises a volatile isoparaffin.

88. The emulsion according to claim 87, wherein the volatile isoparaffin is a C₈-C₁₆ isoparaffin.

89. The emulsion according to claim 88, wherein the C₈-C₁₆ isoparaffin is chosen from isododecane, isodecane, and isohexadecane.

90. The emulsion according to claim 75, wherein the fatty phase further comprises at least one additional component chosen from mineral oils, oils of animal origin, vegetable oils, branched C₈-C₁₆ esters, synthetic esters and ethers, hydroxylated esters, polyol esters, fatty alcohols, and fluorinated oils.

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91. The emulsion according to claim 75, wherein the fatty phase further comprises at least one additional ingredient chosen from pigments, pearlescent agents, and fillers, and further wherein the at least one additional ingredient is selected so as not to affect any transfer-resistant properties of said emulsion.

92. The emulsion according to claim 75, wherein the at least one oil is present in said emulsion in an amount of from 10 to 40% by weight with respect to the total weight of the emulsion.

93. The emulsion according to claim 92, wherein the at least one oil is present in said emulsion in an amount of from 18 to 30% by weight with respect to the total weight of the emulsion.

96. The emulsion according to claim 75, wherein the at least one wax is a mixture of polyethylene wax and of hydrogenated jojoba oil.

97. The emulsion according to claim 75, wherein the at least one wax is present in said emulsion in an amount of from 3 to 15% by weight with respect to the total weight of the emulsion.

98. The emulsion according to claim 97, wherein the at least one wax is present in said emulsion in an amount of from 3 to 10% by weight with respect to the total weight of the emulsion.

99. The emulsion according to claim 75, wherein the aqueous phase is present in said emulsion in an amount of from 0.5 to 60% of the total weight of the emulsion.

100. The emulsion according to claim 75, wherein the aqueous phase comprises

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- a) water or a floral water;
- b) 0 to 14% by weight, with respect to the total weight of the aqueous phase, of lower C₂-C₆ monoalcohols and/or of polyols; and
- c) 0 to 6% by weight, with respect to the total weight of the emulsion, of a thickening agent.

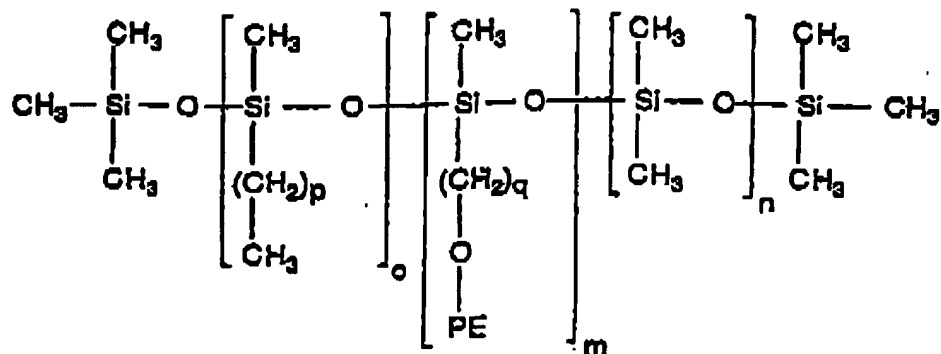
101. The emulsion according to claim 100, wherein the aqueous phase further comprises agents for stabilization of the emulsion.

102. The emulsion according to claim 75, wherein it additionally comprises at least one additive chosen from antioxidants, colorants, fragrances, essential oils, preservatives, cosmetic active principles, moisturizers, vitamins, sphingolipids, sunscreen agents, and fat-soluble polymers.

103. The emulsion according to claim 75, wherein the emulsion is a solid, transfer-free compact foundation.

104. A process for making up the skin and/or scalp, comprising applying to the skin and/or the scalp, a solid cosmetic water-in-oil emulsion comprising an aqueous phase emulsified in a fatty phase comprising at least one oil and at least one wax, wherein the aqueous phase is emulsified using an alkyl dimethicone copolyol corresponding to the following formula:

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in which:

PE is $(-C_2H_4O)_x(-C_3H_6O)_y-H$,

x ranges from 0 to 50,

y ranges from 0 to 30, with the proviso that x and y are not simultaneously 0,

o ranges from 1 to 100,

m ranges from 1 to 40,

n ranges from 1 to 200,

p ranges from 1 to 17, and

q ranges from 1 to 5, and

further wherein the at least one wax in the fatty phase is capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams;

further wherein the at least one oil in the fatty phase comprises a silicone oil, and the at least one wax is chosen from polyethylene wax, hydrogenated jojoba oil, and ozokerite.

105. The process according to claim 104, wherein

o ranges from 1 to 25,

m ranges from 1 to 10, and

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q ranges from 1 to 5, and

further wherein the at least one wax in the fatty phase is capable of conferring a penetration force on the emulsion of greater than or equal to 50 grams;

and wherein the solid water-in-oil emulsion is present in the composition in an amount effective to provide transfer-resistant properties to the composition.

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EVIDENCE APPENDIX

1. Two pages from the International Cosmetic Ingredient Dictionary and Handbook (2000).

SIMMONDSIA CHINENSIS (JOJOBA) SEED OIL

CAS No.: 61789-91-1

Definition: Simmondsia Chinensis (Jojoba) Seed Oil is the fixed oil expressed or extracted from seeds of the desert shrub, Jojoba, *Simmondsia chinensis*.

Regulatory and Ingredient Use Information for Botanicals(1)

Information Source(s): See note below regarding entries, and links.CIR: [S] JACT-11(1)1992, CTFA S, JCIC, JCLS, JSQI, MI-12(5279)

Chemical Class(es): Esters

Function(s): Hair Conditioning Agent; Skin-Conditioning Agent - Occlusive

Reported Product Categories: Hair Conditioners; Moisturizing Preparations; Body and Hand Preparations (Excluding Shaving Preparations); Skin Care Preparations, Misc.; Hair Dyes and Colors (All Types Requiring Caution Statements and Patch Tests); Shampoos (Non-coloring); Tonics, Dressings, and Other Hair Grooming Aids; Lipsticks; Face and Neck Preparations (Excluding Shaving Preparations); Foundations; Night Skin Care Preparations; Cleansing Products (Cold Creams, Cleansing Lotions, Liquids and Pads); Blushers (All types); Hair Preparations (Non-coloring), Misc.; Hair Sprays (Aerosol Fixatives); Eye Makeup Preparations, Misc.; Paste Masks (Mud Packs); Makeup Preparations (Not eye), Misc.; Bath Soaps and Detergents; Suntan Gels, Creams, and Liquids; Manicuring Preparations, Misc.; Hair Rinses (Non-coloring); Face Powders; Makeup Bases; Suntan Preparations, Misc.

Technical/Other Name(s):

Buxus Chinensis Oil

Jojoba Oil

Jojoba Seed Oil

Oils, Jojoba

Simmondsia Chinensis (EU)

Trade Name(s):

AEC Jojoba Oil Pure (A & E Connock)

AEC Jojoba Oil Refined (A & E Connock)

CoJoba (Costec)

Cojoba Clear (Costec)

Floraesters Jojoba Oil (Floratch)

Huile de Jojoba Vierge (Bertin)

Jeen Jojoba Oil (Jeen)

Jojoba Oil (Jan Dekker)

Jojoba Oil (Purcell)

Lipovol J (Lipo)

Lipovol J Lite (Lipo)

Nikkol Jojoba Oil S (Nikko)

PNJ Deodorized (Purcell)

PNJ Golden (Purcell)

PNJ Organic Certified (Purcell)

Refined Jojoba Oil (Ross)

Trade Name Mixture(s):

Gelhypern (Jojoba Oil)(2) (Novoselect)

Glugel JOB(3) (Giulini/Giulini Chemie)

Jojoba Oil(4) (Ross)

Jonat AS(5) (Dr. Gerhard Steldl)

SanSurf J(6) (Collaborative Labs)

Skin Milk J(7) (Rockley)

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HYDROGENATED JOJOBA OIL

Definition: Hydrogenated Jojoba Oil is the end product of the controlled hydrogenation of *Simmondsia Chinensis* (Jojoba) Oil (q.v.).

Information Source(s): See note below regarding entries, and links.JCIC, JCLS, JSQI

Chemical Class(es): Waxes

Function(s): Skin-Conditioning Agent - Occlusive

Technical/Other Name(s):

Jojoba Oil, Hydrogenated

Oils, Jojoba, Hydrogenated

Trade Name(s):

AEC Hydrogenated Jojoba Oil (A & E Connock)

AEC Jojoba Wax Beads (A & E Connock)

AEC Jojoba Wax Prills (A & E Connock)

Florabeads - Jojoba (Floratech)

Jobacream M-40 (Koel Perfumery)

Nikkol Jojoba Wax (Nikko)

Trade Name Mixture(s):

Florabeads - Jojoba Grains(1) (Floratech)

Floraesters HIPJ(2) (Floratech)

Jojoba Oil(3) (Ross)

International Cosmetic Ingredient Dictionary and Handbook, 8th Edition, Printed Edition Page Number: 651

Cross References: [International Buyers' Guide] (4)[CTFA List of Japanese Cosmetic Ingredients] These hypertext links will activate when associated electronic books are purchased.

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RELATED PROCEEDINGS APPENDIX